

EXHIBIT K-1

1 APPEARANCES

2
3 COOLEY LLP

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6 212.479.6000

7 Attorneys for Claimant

8 BY: SCOTT D. BALBER, ESQ.

9 sbalber@cooley.com

10
11 ALSO PRESENT:

12 Jonathan Low

13 Paula M. Shugart

14 Andrea E. Berner, Esq.

15 Jennifer Solar

16 Michael Cohen

17 Craig Heitkamp

18 Mariano Schwed, Esq.

19 T. Myrzabayev

20 William A. Barrett, Esq.

1

2

THE ARBITRATOR: This is the

3

arbitration hearing in the Miss Universe
against Sheena Monnin proceeding.

4

5

For the record, the record should

6

reflect that Ms. Monnin and her attorney
are not present at the proceeding.

7

8

They have been provided notice and

9

copies of all orders issued and have

10

taken the position that they are not

11

going to participate in the proceeding.

12

Have you heard anything from them,

13

Mr. Balber?

14

MR. BALBER: We did, actually.

15

We heard from her lawyer on Friday

16

who indicated they would not be

17

attending but were threatening to file a

18

lawsuit today in federal district court

19

for the Eastern District of Pennsylvania

20

so we said we will be here, we hope to

21

see you.

22

I am not sure what they are going

23

to do. That is the last we heard.

24

MR. COHEN: The nature of that

25

action is against Donald Trump

1 Opening - Mr. Balber
2 individually for defamation.

3 THE ARBITRATOR: Defamation
4 against --

5 MR. COHEN: By Ms. Monnin.

6 THE ARBITRATOR: Wait. There is a
7 separate action?

8 MR. COHEN: No. This is what they
9 are threatening to bring.

10 THE ARBITRATOR: I see. Okay.
11 And you have gotten appearances?

12 Mr. Balber, do you want to make an
13 opening statement?

14 MR. BALBER: Just some brief
15 comments, your Honor.

16 The fact that Ms. Monnin is not
17 here speaks volume from our perspective.
18 There is no defense to this action.

19 She, after having failed seven
20 times to achieve the goal of becoming
21 Miss USA, she became vengeful, bitter.

22 She embarked on a campaign to
23 retaliate against the organization by
24 asserting that we are rigged,
25 fraudulent, false and as a result of

1 Opening - Mr. Balber
2 Facebook postings, texts and an
3 appearance on the Today show, which we
4 will show you, she continued this
5 campaign in the face of undeniable,
6 incontrovertible proof that the
7 organization runs a carefully
8 orchestrated, secure pageant that is
9 audited by Ernst & Young.

10 You will hear from Ernst & Young
11 as well.

12 In the face of all this evidence
13 the fact that she made these allegations
14 and perpetuated them after the fact is
15 demonstrative of her malice.

16 The thing I do want to emphasize
17 though which is pretty important is the
18 injury that this organization has
19 suffered as a result of these reckless
20 statements.

21 You will hear from Ms. Shugart who
22 is the president of the Miss Universe
23 organization first.

24 The organization is built on
25 reputation; reputation alone. They

1 Opening - Mr. Balber
2 don't sell inventory. They don't
3 manufacture anything. They don't
4 perform professional services.

5 Their sterling reputation, their
6 brand, is what drives the organization.

7 And the statements that were made
8 publicly by Ms. Monnin that we are
9 rigged and false has just done
10 irreparable damage. (2)

11 We have lost millions of dollars
12 of revenue in this year alone. We have
13 lost potential contestants on a
14 statewide level.

15 You will hear testimony from one
16 of our statewide directors about the
17 drop in applicants since Ms. Monnin made
18 her statements.

19 You will hear from a brand
20 valuation expert who will tell you that
21 the value of the brand which had been
22 sterling prior to these statements has
23 now been damaged in the amount of
24 millions of dollars.

25 One last point which I think is

1 Opening - Mr. Balber
2 critical. This is with regard to a
3 statement you made during one of our
4 conference calls which is, well, are we
5 going to really be able to get a
6 judgment and enforce it against this
7 woman, and the answer is, I don't know,
8 but that is not why we are here.

9 We have suffered very substantial
10 economic injury which may not be
11 reparable by money or otherwise.

12 What has she gotten out of it?
13 She has gotten precisely the fame and
14 media attention, the Facebook following,
15 the TV appearances, that she could not
16 get the legitimate and honest way by
17 winning the pageant.

18 To allow her to walk away for
19 being responsible for the economic
20 damage she caused will simply send a
21 message that you can get your moment of
22 fame, it won't cost you very much, and
23 the organization can suffer as a result.

24 Thank you.

25 THE ARBITRATOR: Just a couple of

1

2

questions.

3

4

So she participated in other state
pageants --

5

MR. BALBER: Correct.

6

7

THE ARBITRATOR: -- prior to the
one at issue.

8

MR. BALBER: Correct.

9

10

11

12

She participated in the
Miss Florida pageant and the
Ms. Pennsylvania pageant a total of, I
believe, seven times.

13

14

THE ARBITRATOR: She never made
it?

15

16

17

18

19

20

21

22

MR. BALBER: You will hear
evidence that she made it to the
Miss USA pageant this year, did not
advance beyond the preliminary round,
and at that moment, long before a winner
was selected or the top five were
selected, she began making her
statements the pageant was rigged.

23

24

Purely vindictive, purely
malicious.

25

THE ARBITRATOR: The other thing I

(4)

1

2

would like some clarification on is I

3

know you made discovery requests of Ms.

4

Monnin. I am not sure what they were

5

and I know she didn't respond.

6

MR. BALBER: We had asked for -- I

7

can provide you a copy.

8

We had asked for communications

9

that she had with any third-party about

10

the -- her allegations, any evidence

11

whatsoever she had in her possession

12

that would buttress her allegations,

13

copies of Facebook postings and the

14

like.

15

THE ARBITRATOR: Okay. At some

16

point maybe you could put in your

17

request as an exhibit.

18

MR. BALBER: Absolutely.

19

THE ARBITRATOR: Okay. Why don't

20

you call your first witness?

21

MR. BALBER: Sure. The claimant

22

calls Paula Shugart.

23

PAULA SHUGART, called as a witness by the

24

Claimant, having been duly sworn,

25

testified as follows:

1 Shugart - direct

2 THE ARBITRATOR: If it would help
3 to expedite things, I don't want to cut
4 anybody short, the way I see it the two
5 primary issues that I think I would need
6 to hear more evidence about is the issue
7 of actual malice and, of course, the
8 issue of the damages.

9 MR. BALBER: Understood. I think
10 it is important for you to hear --

11 THE ARBITRATOR: Sure.

12 MR. BALBER: The actual malice is
13 going to be derived circumstantially for
14 lots of reasons not the least of which
15 is she didn't respond to our discovery
16 requests.

17 We will be able to demonstrate
18 actual malice to show the contrast
19 between the reality, the careful,
20 measured, secure, audited mechanism by
21 which judging is contained relative to
22 her statements that had absolutely no
23 basis in fact.

24 As a result there is going to be a
25 little bit of a background presentation

1 Shugart - direct

2 by Ms. Shugart and by Ernst & Young as
3 to how they do things, how it operates,
4 et cetera, all of which Ms. Monnin was
5 aware of.

6 THE ARBITRATOR: She was aware of?

7 MR. BALBER: Yes. We will get
8 into that.

9 DIRECT EXAMINATION

10 BY MR. BALBER:

11 Q. Ms. Shugart, what is your current
12 position?

13 A. I am the president of the
14 Miss Universe organization.

15 Q. How long have you held that job?

16 A. Twelve years.

17 Q. How long has the organization been
18 around?

19 A. 62 years.

20 Q. Since the 1950s?

21 A. Since 1952 or 1951 we were formed.

22 Q. What is the history of the
23 organization? How was it is formed?

24 A. We were actually formed originally
25 by a sponsor of Miss America who wanted to

1 Shugart - direct

2 create their own pageant.

3 They created Miss USA and
4 Miss Universe and they felt they could do a
5 bigger brand and do a better job with it.

6 Q. Who currently owns the
7 organization?

8 A. It is a joint venture between NBC
9 and Donald Trump.

10 Q. Has the organization evolved over
11 the last 60 years since it was formed?

12 A. Yes. Definitely.

13 Q. In what ways?

14 A. It is now, where it started as a
15 relatively small pageant, it grew.

16 We are one of the most watched
17 events around the world. We are
18 consistently the top-rated television
19 program in all of Latin America, many parts
20 of Asia.

21 We are -- we broadcast to 190
22 countries and Miss USA is actually seen in
23 90 countries. Just because our following is
24 so strong people want to see who is going to
25 be competing in Miss Universe.

1 Shugart - direct

2 Q. What are the pageants that are run
3 by the organization?

4 A. We own Miss Teen USA, Miss USA and
5 Miss Universe.

6 Q. How does the organization get
7 contestants to participate in the
8 Miss Universe pageant?

9 A. We have a series of franchisees
10 around the world.

11 We have the 50 states and the
12 District of Columbia and around the world we
13 have about 100 franchisees that also conduct
14 their own pageants and the winners of their
15 pageants compete in our umbrella pageant.

16 Q. On the state level what is the
17 title awarded to the woman who wins the
18 Miss State pageant?

19 A. It is Miss whatever the state and
20 USA so Miss Pennsylvania USA, Miss New York
21 USA.

22 Q. The winners of the state pageants
23 compete again?

24 A. Yes. They will all come to
25 Miss USA and compete for that title.

1 Shugart - direct

2 Q. What does the winner of Miss USA
3 compete in?

4 A. The winner of Miss USA will then
5 compete at Miss Universe.

6 Q. How many countries participated in
7 the Miss Universe pageant?

8 A. On average, usually around 90.

9 Q. Where does the Miss Universe
10 organization get its revenue from? How does
11 it make its money?

12 A. There are three or four different
13 revenue streams.

14 Number one for us are host sites
15 so, because of the exposure, because we are
16 so popular, the exposure we are able to
17 provide a host country or city, it is big
18 for their tourism industry to bring us in
19 because like the Olympics or the World Cup
20 very few events can provide that kind of
21 exposure.

22 Secondly, sponsorship. Different
23 brands that affiliate with our brand and our
24 title holders become their spokespeople or
25 their -- are seen in our telecast and our

1 Shugart - direct
2 franchises around the world.

3 There are franchise fees that are
4 paid to the organization based on the
5 contestants that are competing on the state
6 or national level, and our license fee for
7 the television program from NBC Universal.

8 Q. What was the total revenue
9 generated by the Miss Universe organization
10 last year?

11 A. In 2011, around 30 million.

12 Q. Let me direct your attention to
13 Exhibit 27 in your exhibit book.

14 Do you recognize Exhibit 27?

15 A. Yes. It is the -- our financial
16 statements.

17 Q. If you look at page 4 --

18 A. Yes.

19 Q. -- total revenues for 2011?

20 A. Yes. Total revenue net of about
21 5.5 million.

22 Q. That is net income and the total
23 revenue at the top line?

24 A. The 31.

25 Q. Right.

1 Shugart - direct

2 I mentioned in my opening
3 statement the importance of the integrity of
4 the organization and the value of the brand.

5 Tell us about how the integrity of
6 the organization matters with regard to its
7 ability to generate revenue?

8 A. Well, the brand itself, that is
9 all we are.

10 We don't make cars, we don't do
11 anything else over 60 years where -- we are
12 an aspirational brand. That is what we have
13 grown into be.

14 It is -- we sell dreams and
15 opportunities. Some of our most -- to go
16 through our system, it is the opportunity of
17 something that you will never have a chance
18 to experience again.

19 It is a competition and it is
20 based on integrity. It is based on our
21 reputation that you can compete and really
22 have a chance at having a life altering
23 experience.

24 Q. And in your experience do the
25 sponsors and the network and advertisers

1 Shugart - direct

2 have an expectation of that integrity?

3 A. Absolutely. Everyone that is
4 affiliated with our brand, and even our fans
5 who watch the show, we are about our
6 reputation, we are about integrity and that
7 is the number one thing that we are built
8 on.

9 Q. What happens to a young woman when
10 she is crowned Miss USA?

11 A. Without sounding too cliché,
12 literally her life does change forever.

13 It is only 61 women who have ever
14 experienced it before but the second she is
15 crowned and the lights go off she is swamped
16 by a lot of people on stage and all the
17 people that are going to be literally
18 running her life for the next year and while
19 she is taking the photo op and meeting
20 Mr. Trump, we have a crew -- our staff will
21 go upstairs, pack up all of her belongings,
22 move her to the presidential suite and where
23 she will come back after the coronation
24 event, and she immediately flies to New York
25 the next day where everything for the next

1 Shugart - direct
2 year is paid for and she starts her life as
3 Miss USA representing our brands,
4 representing the company and then she starts
5 her media tour.

6 Usually, the first thing is she
7 will go on the Today show the next day and
8 really start an entire new life.

9 Q. Let's talk about the criteria for
10 being a Miss USA contestant. Is there an
11 age restriction?

12 A. Yes, there is.

13 Q. What is it?

14 A. 18 to 26.

15 Q. Once a woman hits age 27 --

16 A. By a certain date then she ages
17 out and can no longer compete.

18 Q. Are there any other restrictions
19 with regard to being married or having
20 children, anything like that?

21 A. Yes. There are certain rules, you
22 cannot be married, never had a child, and up
23 until this year you had to be naturally born
24 female.

25 Q. What happened this year?

1 Shugart - direct

2 A. This year in Canada someone was
3 disqualified on the Canadian pageant for
4 being a transgendered contestant and after
5 much debate she was allowed to compete.

6 Q. Allowed by the organization to
7 compete?

8 A. Yes.

9 Q. When did that happen?

10 A. End of March, beginning of April
11 of this year.

12 Q. Was that a controversial decision?

13 A. Very.

14 Q. In what respect?

15 A. Obviously, there were a lot of
16 different viewpoints on both sides.

17 We really looked extensively --
18 being a worldwide organization obviously
19 there are different viewpoints, different
20 countries around the world, and so we really
21 looked at the Olympic model to -- as really
22 a road map of what kind of decision because
23 in the Olympics you are allowed to compete
24 if you are a transgendered athlete. I know
25 that was controversial.

1 Shugart - direct

2 So we -- there were certainly a
3 lot of people felt it was not the right
4 decision and others that were very, very
5 supportive of the decision.

6 Q. Are contestants in the Miss USA
7 pageant required to sign an agreement?

8 A. Yes, they are.

9 Q. Let me direct your attention to
10 Exhibits 1 and 2 in your book.

11 A. I will definitely need glasses for
12 this one.

13 Q. I don't blame you.

14 For starters, tell us what Exhibit
15 1 is and what Exhibit 2 is.

16 A. Exhibit 1 is the contestant entry
17 form to compete at the Miss USA competition.

18 Q. And what is Exhibit 2?

19 A. These are the rules and
20 regulations for the state pageant.

21 Q. Were Exhibits 1 and Exhibit 2
22 signed by anyone?

23 A. Yes, they were.

24 Q. By whom?

25 A. Sheena Monnin and she initialed

1 Shugart - direct

2 every page here.

3 Q. She came up through the
4 Pennsylvania pageant?

5 A. Yes, she did.

6 Q. She became Miss Pennsylvania USA
7 2012?

8 A. Yes, she did.

9 Q. Let me direct your attention to
10 paragraph 5L of Exhibit 1 on page 7.

11 A. Okay.

12 Q. Without reading it into the record
13 just, if you can, tell us what this
14 paragraph speaks to.

15 A. It speaks that she -- how she
16 agrees to conduct her activities in
17 accordance with our rules and regulations
18 and it speaks to she will not subject the
19 organization to ridicule or she won't
20 disparage the organization.

21 And it really speaks to our
22 reputation and the integrity of the
23 organization.

24 Q. Her commitment and agreement not
25 to put the reputation of the organization at

1 Shugart - direct

2 risk?

3 A. Yes, that is correct.

4 Q. And let me just direct your
5 attention to paragraphs 5B and 5F as well.

6 A. Okay.

7 Q. Again, generally, what do those
8 paragraphs speak to?

9 A. Again, it speaks to her
10 participation in the pageant and that she
11 agrees she will be following our rules and
12 requirements and of the pageant. It speaks
13 to our reputation.

14 Q. Again, she agrees not to violate
15 any rights or cause any injury or harm to
16 the organization?

17 A. Yes.

18 Q. Are there similar provisions in
19 Exhibit 2 with regard to the state pageant?

20 A. Yes, there are.

21 Q. Just collectively can you explain
22 for us the reasons why these provisions are
23 set forth in the Miss Pennsylvania and then
24 the Miss USA pageant agreements?

25 A. Again, it all speaks to our

1 Shugart - direct

2 reputation.

3 It all speaks to what we are built
4 on and integrity and our reputation is if we
5 have a good reputation that is how we
6 flourish as an organization, that is how we
7 grow as an organization, and by -- if any
8 action of a contestant brings the
9 organization into disrepute then it will
10 damage the organization. She agrees that
11 she won't do anything.

12 Q. Are judges for the various
13 pageants also required to act with
14 integrity?

15 A. Yes, absolutely.

16 Q. Are they bound by any agreements?

17 A. Yes, they are.

18 THE ARBITRATOR: Before we move
19 on, can I assume that you are offering
20 each of these exhibits?

21 MR. BALBER: I didn't know what
22 kind of procedure you wanted to use.

23 Yes. I am happy to offer them.

24 If you want me to go through the
25 exercise absolutely. I have had

1 Shugart - direct

2 arbitrators --

3 THE ARBITRATOR: You want to put
4 them all in at the end?

5 MR. BALBER: I am happy to do it
6 seriatim.

7 Why don't we just offer --

8 THE ARBITRATOR: 27 is first.

9 MR. BALBER: Exactly. 27. Let's
10 offer 27 and 1 and 2.

11 THE ARBITRATOR: 27 and 1 and 2
12 are admitted.

13 (Claimant's Exhibit 27 received in
14 evidence)

15 (Claimant's Exhibit 1 received in
16 evidence)

17 (Claimant's Exhibit 2 received in
18 evidence)

19 BY MR. BALBER:

20 Q. Let me direct your attention to
21 Exhibits 3, 4, 5 and 6. Let's start with
22 Exhibit 3.

23 A. Yes.

24 Q. What is Exhibit 3?

25 A. This is a document that our judges

1 Shugart - direct
2 sign just in -- to -- in compliance with the
3 Communications Act.

4 This is actually something we sign
5 with NBC Universal, just that they -- it
6 speaks that they have not received any
7 payment or disclosed anything that they
8 would need and that they are actually able
9 to judge and there has been in -- they have
10 not received any financial payments on the
11 side.

12 Q. Okay. Then what is Exhibit 4?

13 A. Exhibit 4 is the judge appearance
14 agreement basically saying that they have --
15 there are no conflicts, they agree to comply
16 with our rules and regulations to judge the
17 pageant and that there is nothing that would
18 preclude them from judging the pageant, they
19 haven't met the contestants and they agree
20 to follow all our rules basically.

21 Q. Exhibits 5 and 6?

22 A. 5 and 6 are our judges handbooks;
23 one for the preliminary panel and the final
24 telecast panel basically outlining what the
25 experience will be, what we are looking for

1 Shugart - direct
2 in contestants and really the rules again of
3 making sure that they know exactly what is
4 expected and taking the whole event
5 seriously.

6 MR. BALBER: We offer Exhibits 3
7 through 6.

8 THE ARBITRATOR: 3 through 6 are
9 admitted in evidence.

10 (Claimant's Exhibit 3 received in
11 evidence)

12 (Claimant's Exhibit 4 received in
13 evidence)

14 (Claimant's Exhibit 5 received in
15 evidence)

16 (Claimant's Exhibit 6 received in
17 evidence)

18 BY MR. BALBER:

19 Q. Let's talk, if we can,
20 Ms. Shugart, about the process for the
21 Miss USA pageant.

22 I think you testified that there
23 are 51 contestants.

24 A. Yes, there are.

25 Q. Where do those contestants come

1 Shugart - direct

2 from?

3 A. All 50 states and the District of
4 Columbia.

5 Q. And what is the first stage in the
6 Miss USA competition?

7 A. The first stage is actually on the
8 state level.

9 Q. Once we get to 51?

10 A. We have the preliminary
11 competition in which all 51 contestants
12 compete in swimsuit, evening gown and
13 interview.

14 Q. Is the preliminary competition
15 aired on television?

16 A. No. It is webcast.

17 Q. Are there judges for that part of
18 the competition?

19 A. Yes, there are.

20 Q. How many judges?

21 A. Usually around seven or eight.

22 Q. What is the set of characteristics
23 or criteria for those seven or eight judges?

24 A. Usually we look for industry
25 professionals in the entertainment industry,

1 Shugart - direct
2 the fashion industry, media, business
3 community, people that are all successful in
4 their field and that would know what we
5 would be looking for in Miss USA.

6 Sometimes we have people in the
7 beauty industry that could envision having a
8 winner come on as one of their spokespeople.

9 Q. Do you give any kind of
10 presentation to these preliminary judges
11 about what they should expect, how they
12 should conduct themselves?

13 A. Definitely.

14 Q. You personally do that?

15 A. Yes.

16 O. When, in the process, do you do
17 that?

18 A. Well, when the judges come in the
19 preliminary competition is usually over a
20 two or three-day period.

21 So I will meet with the judges
22 when they first come in and I will talk to
23 them and thank them for giving up a lot of
24 time and explain how serious the process is
25 because it is -- it is very strange because

1 Shugart - direct

2 whoever is crowned Miss USA is the face of
3 our company.

4 We work with her for a year yet it
5 is up to the judges to actually make the
6 hire for us. They are hiring the face of
7 our company.

8 It is interesting because I am
9 dependent upon them to make good choices.

10 Q. So anything else you say to them
11 as part of that --

12 A. Yes. I go through the whole
13 process of basically what really the
14 technical -- what to expect, what will be
15 happening in the interview process, the
16 chance that they will have to speak with
17 each contestant and the criteria of what we
18 are looking for and make it very, very clear
19 that I am looking for somebody with an "it"
20 factor.

21 I am not looking for a particular
22 skin color, height, hair color or anything.
23 I am just looking for -- I try to give them
24 the tools to say here is somebody that could
25 go on to be Miss USA and that is what I talk

1 Shugart - direct

2 through with them.

3 Q. Do you also speak to the 51
4 contestants during the preliminary phase?

5 A. I do. I speak to the contestants
6 actually several times throughout the
7 three-week period. They are on location for
8 three weeks.

9 I -- the first time I speak to
10 them is within the first couple of days
11 after they registered and everything has
12 been set up.

13 And I just -- when I talk to the
14 contestants the first time it is really to
15 welcome them and let them know they are
16 the -- they are the only class of 2012.

17 There will be no other group that
18 will ever be able to say they are part of
19 this. It is up to them to make the most of
20 the experience and I elaborate on that.

21 Q. What else do you say to them in
22 that regard?

23 A. Well, actually I make it very,
24 very clear that they should all be very
25 proud that they made it there.

1 Shugart - direct

2 Somebody once said that the odds
3 of making it to a Miss USA pageant, you have
4 better odds of actually playing in the NFL,
5 but I do make it clear that they are there
6 for three weeks and they have all of these
7 women who -- like-minded women who are
8 coming together and they need to make the
9 most of that experience because they will
10 probably have friendships out of this that
11 will last for the rest of their lives.

12 And it is about pushing the
13 envelope for yourself, growing as a person,
14 and the fact that they made it there says a
15 lot about who they are and what they can
16 accomplish in life.

17 And I also make it very, very
18 clear that in that room only one of those --
19 only one of them is going to go and
20 ultimately become Miss USA so the odds are
21 against you from the beginning but it is in
22 their -- they have the opportunity and they
23 have the ability, they need make sure, so
24 therefore they need make sure they make the
25 most of the experience because there could

1 Shugart - direct

2 be out of 51, there could be 50 disappointed
3 people if they didn't approach the process
4 properly.

5 Q. In fact, there will be 50 who end
6 up not becoming Miss USA?

7 A. Exactly.

8 Q. During this preliminary process
9 over that three weeks do you speak to the 51
10 contestants about the judging process?

11 A. Yes, I do.

12 Q. What do you say to them in that
13 regard?

14 A. Just before the preliminary
15 process I talk to them about, usually,
16 interviews first.

17 So I talk to them about just being
18 themselves and really they will have the
19 opportunity meet all of these industry
20 professionals who are there just because
21 they want to hear what they have to say.

22 And, again, make the most of the
23 experience. Here are people that really
24 want to hear what you have to say.

25 I talk to them about how to relax

1 Shugart - direct
2 and just enjoy the process and then I
3 introduce them to Tal Goldhamer from Ernst &
4 Young.

5 He comes in with me and we explain
6 the process together.

7 Q. What do you two say to the girls,
8 the 51 girls, about the judging process and
9 the role of Ernst & Young?

10 A. Well, when I first introduce Tal I
11 first say he is the person who audits the
12 ballots, he is the person that knows before
13 anybody else who Miss USA is going to be so
14 he is a very, very important person.

15 And they always have a moment
16 where they ooh and ahh over him and let them
17 know he just got married and I think it
18 mostly embarrasses Tal but then we talk
19 about the process and I make -- talk about
20 the fact that Ernst & Young is very, very
21 important because the fact that he is there
22 to really show -- to verify the process, to
23 oversee the process and that is why he is
24 the person that knows the results and so I
25 also say he is also the traffic cop.

1 Shugart - direct

2 He is there during the entire
3 process so if they have any questions during
4 the interview, where to go or whatever, just
5 look to Tal and Tal will point them in the
6 right direction.

7 He will have them sign a sheet
8 after the interview saying they have been
9 through the process.

10 Q. Was Ms. Monnin present during your
11 conversation with the 51 girls about the
12 role of Ernst & Young and the auditing and
13 the judging process?

14 A. Absolutely.

15 THE ARBITRATOR: Are they told
16 anything about confidentiality in the
17 process?

18 THE WITNESS: As far as
19 confidentiality?

20 THE ARBITRATOR: While the judging
21 is going on or while people are being
22 evaluated.

23 THE WITNESS: They know that all
24 the votes are kept confidential. That
25 is really all we really speak to.

1 Shugart - direct

2 We also make it very, very clear
3 that the judges are there for their own
4 individual votes and that even the
5 judges will not speak to each other
6 about what -- how they are feeling.

7 THE ARBITRATOR: Is that part of
8 the rules with judges?

9 THE WITNESS: Yes. It is just
10 part of our guidelines and it is in our
11 handbook for the judges. They are there
12 for their own opinion.

13 That is why we have a diverse
14 panel because out of all the diverse
15 opinions that is how we ultimately get
16 somebody who can represent everyone as
17 Miss USA.

18 BY MR. BALBER:

19 Q. Okay. I think you mentioned there
20 are three components of the preliminaries.
21 I think you said evening gown, swimsuit and
22 interview; is that right?

23 A. Yes, that is right.

24 Q. How does the voting process by
25 that seven or eight judges in the

1 Shugart - direct
2 preliminary round operate?

3 A. In each category after the
4 contestants have been through the process
5 the judges will circle their ten favorites
6 in each category and then those votes are
7 tabulated and we can see -- it is called a
8 mention system.

9 If you circled one, you mentioned
10 them in that category. Out of that mention
11 system that is how we determine who received
12 the most mentions.

13 Q. You used the word tabulate. Who
14 does the tabulation?

15 A. Tal Goldhamer and his associate.

16 Q. How do the sheets get from the
17 judges to Tal Goldhamer at Ernst & Young?

18 A. Tal and his colleague are solely
19 responsible.

20 Q. When was the Miss USA pageant held
21 in 2012?

22 A. The final was June 3.

23 Q. Where was it held?

24 A. Las Vegas.

25 Q. Let me show you Exhibits 8 and 9.

1 Shugart - direct

2 They are actually in front of you.

3 If you can just explain what -- if
4 you can just explain to us what Exhibits 8
5 and 9 are?

6 A. These are the preliminary -- this
7 is a sheet from -- a spreadsheet from Ernst
8 & Young with the mentions tabulated.

9 Q. So this is the Ernst & Young
10 tabulation of the mentions you testified
11 about a minute ago?

12 A. Yes.

13 Q. If you look at Exhibit 10 that is
14 signed by you?

15 A. Yes, it is.

16 Q. What is Exhibit 10?

17 A. That is just verifying the top 16
18 that are going ahead for the telecast.

19 Q. I think you mentioned there were
20 15 that come out of the preliminary mention
21 process.

22 Where does the 16 --

23 A. The 16th is an audience vote so
24 the people are voting online through the
25 process and picked the 16th. That would be

14

1 Shugart - direct

2 the 16th contestant here. That is the order
3 they were announced in.

4 Q. The 15 come from the tabulation
5 process that Ernst & Young performs and then
6 the 16th is picked by the audience; is that
7 right?

8 A. Yes.

9 Q. What happens to this universe of
10 the top 16?

11 A. They are -- the top 16 will be
12 announced at the -- after the top of the
13 telecast.

14 MR. BALBER: We offer Exhibits 8,
15 9 and 10.

16 THE ARBITRATOR: They are
17 admitted.

18 (Claimant's Exhibit 8 received in
19 evidence)

20 (Claimant's Exhibit 9 received in
21 evidence)

22 (Claimant's Exhibit 10 received in
23 evidence)

24 BY MR. BALBER:

25 Q. Do the girls know at the end of

1 Shugart - direct

2 the preliminary competition who will be the
3 16th and go to the finals?

4 A. No.

5 Q. When do they find out?

6 A. They don't find out until they are
7 announced by our host, usually about 30
8 minutes, 25 minutes into the telecast.

9 Q. By "telecast," you mean the final?

10 A. The finals, the night of June 3.

11 Q. Who typically are the judges for
12 the finals? What is their background?

13 A. Most of them are celebrities from
14 the entertainment world or sports figures, a
15 lot of people that can relate to being in
16 the spotlight and understand what we are
17 looking for or former Miss Universe or
18 former Miss USA.

19 Q. If I could direct your attention
20 to Exhibit 7?

21 What is Exhibit 7?

22 A. This is the list of our telecast
23 judges this year.

24 Q. The final judges?

25 A. Yes, for the finals.

1 Shugart - direct

2 Q. Just quickly, Exhibit 32.

3 A. Yes.

4 Q. What is Exhibit 32?

5 A. This is the form that all the
6 judges sign.

7 These are the completed documents
8 saying they will comply by our rules and
9 they are subject to the sections 507 and 508
10 of the Communications Act.

11 Q. These are the signed examples of
12 Exhibits 3 and 4 that we saw?

13 A. Yes. These are signed by each
14 judge.

15 Q. By each judge for the 2012
16 Miss USA pageant?

17 A. Right.

18 MR. COHEN: Your Honor, going back
19 to Exhibit 7, is there any of the eight
20 judges that you would like clarification
21 on in terms of who they are?

22 THE ARBITRATOR: I know some of
23 the names. I don't know them all.

24 MR. COHEN: I figured.

25

1 Shugart - direct

2 BY MR. BALBER:

3 Q. Why don't you tell us who they
4 are?

5 A. It was --

6 Q. Exhibit 7 is the list of judges?

7 A. Well, Mary Lou Henner is an
8 actress from -- probably best known from
9 Taxi and she has a production company and
10 she was on Celebrity Apprentice.

11 Arsenio Hall.

12 THE ARBITRATOR: I know him.

13 THE WITNESS: Alex Fedotowsky, she
14 is a reality star from the Bachelorette,
15 and Rob Kardashian, one of the
16 Kardashians, 2 million Twitter
17 followers.

18 Diana Mendoza is a former
19 Miss Universe title holder.

20 Joe Jonas is a pop star from the
21 Jonas Brothers.

22 Cat Cora is a celebrity chef who
23 has her own television show on Bravo.

24 And George K, as he is called, is
25 a fashion consultant and he also has his

1 Shugart - direct

2 own television show and he is very, very
3 big in the fashion industry.

4 THE ARBITRATOR: Now I can pretend
5 I know who all these people are.

6 Thank you.

7 BY MR. BALBER:

8 Q. I don't know if I offered Exhibits
9 7 and 32.

10 THE ARBITRATOR: It is admitted.

11 (Claimant's Exhibit 7 received in
12 evidence)

13 (Claimant's Exhibit 32 received in
14 evidence)

15 THE ARBITRATOR: 32 is in.

16 BY MR. BALBER:

17 Q. One point I want to make for the
18 record, your Honor.

19 The actual raw data for the voting
20 which includes I guess 8, 9 and 10 as well
21 as some documents I am going to show you in
22 a minute, we need these to be treated highly
23 confidential for I think obvious reasons.

24 The identities of who each judge
25 selected and the valuation given by each

1 Shugart - direct
2 judge to each contestant is something we
3 treated as proprietary in order to preserve
4 the integrity of the voting process so if we
5 can envision some kind of mechanism to
6 ensure that is treated differently than the
7 other exhibits that we proffered?

8 THE ARBITRATOR: They will be
9 deemed confidential and I don't think I
10 probably have to make any reference to
11 them in my arbitration opinion.

12 MR. BALBER: That is what I was
13 suggesting, certainly, by subject
14 matter, but if you don't need to get
15 into the raw data that would be helpful.

16 THE ARBITRATOR: Right.

17 BY MR. BALBER:

18 Q. Okay. So now we are in the final
19 telecast.

20 Is that aired live?

21 A. Yes, it is.

22 Q. How long does the show last?

23 A. It is over a two-hour period.

24 Q. Everything is happening on the
25 spot as the show is progressing?

1 Shugart - direct

2 A. Yes. It picks up speed very
3 quickly.

4 Q. Now, before we actually get to the
5 live telecast, do you do any kind you
6 briefing for the eight celebrity judges
7 similar to what you do for the preliminary
8 judges?

9 A. Yes.

10 Q. What does that entail?

11 A. There are two components of this.
12 Because the celebrity panel, they
13 aren't there for the three days, they have
14 literally this two-hour period, I try to
15 give them as many tools as I can to let them
16 know what we are looking for.

17 So I have two different briefing
18 periods.

19 First is to give an overview of
20 what we are looking for in a Miss USA and
21 what her life for the next year will entail.

22 And then there is the -- also the
23 computer briefing process but I definitely
24 talk to them first about just how important
25 it is what they are doing and how serious

1 Shugart - direct
2 this is; that, yes, it is a unique
3 experience and they are going to have a good
4 time but they are there for a very, very
5 important job, and what they are going to do
6 is literally going to change somebody's life
7 forever, whoever they pick is -- their life
8 will never be the same.

9 I try to drive that home with the
10 judges and I want to make sure they take
11 that very, very seriously.

12 And it does -- I also make it
13 clear that these are all very beautiful,
14 very accomplished young women so they have a
15 very difficult job.

16 So I sort of give them overviews
17 to the fact of the go-to rule-of-thumb is
18 they are all going to be walking a red
19 carpet with someone and they -- they all
20 walk red carpets so if they are going to
21 go there and they hear Miss USA is there
22 or going to be at the event I want them to
23 be able to walk in and say, of course, that
24 is Miss USA, whatever vision they have in
25 their head.

1 Shugart - direct

2 I don't want them to walk in and
3 say, really, that is Miss USA.

4 I really need them to take it
5 very, very seriously because they are
6 selecting -- they are dictating how our
7 brand will be for the next year.

8 Q. You mentioned there is a second
9 component of the briefing you give to the
10 final telecast judges.

11 A. Yes. After we talk about that and
12 answer the questions and they usually do
13 have a lot of different questions we then go
14 into the -- we clear the house and we
15 schedule at a time when the contestants
16 aren't there so they don't run into anybody
17 where we sit them in their seats for the
18 telecast and go over the computer system
19 with them.

20 Q. That is how they register their
21 votes?

22 A. Yes.

23 Q. If you can walk us through what
24 that computer component briefing entails?

25 A. It is really two things. This way

1 Shugart - direct
2 they know where they will be sitting and
3 there is actually -- it almost looks like a
4 telephone key pad in front of them.

5 Q. Let me show you -- we can either
6 mark it as an exhibit or use it as a
7 demonstrative.

8 Why don't we mark it as Exhibit
9 35?

10 THE ARBITRATOR: Okay.

11 BY MR. BALBER:

12 Q. What is Exhibit 35, Ms. Shugart?

13 A. This is the key pad on the
14 computer system that each judge has in front
15 of them.

16 Q. What do they do with it?

17 A. That is how they input their votes
18 for each competition.

19 Q. I see there is some -- three, a
20 green, yellow and red box up there. What is
21 that?

22 A. That is our stoplight.

23 It is green -- when it is green it
24 means voting is open.

25 When it is yellow it means you

1 Shugart - direct

2 have to wrap it up pretty quickly.

3 Red means voting has stopped.

4 Q. What do they do with the numeric
5 key pad below the lights?

6 A. That is how they input their
7 votes. If they, it can go anywhere from a
8 1.0 to a 9.99 so they will -- they use the
9 key pad to -- as they are watching the
10 competition. That is how they input their
11 vote for each contestant.

12 Q. What happens to the information
13 they are inputting on the key pad?

14 A. It is tied -- it will go
15 automatically straight back to the computer
16 operators in the Ernst & Klein section at
17 the back of the house.

18 Q. Ernst & Young?

19 A. Ernst & Young.

20 Ernst & Klein is my market next
21 door which I needed to stop by and get
22 water.

23 The Ernst & Young -- please don't
24 tell Tal I said that.

25 The Ernst & Young table is at the

1 Shugart - direct

2 back of the auditorium.

3 Q. The data goes right from the
4 judge's key pad to the Ernst & Young secure
5 area?

6 A. Yes.

7 Q. Are all the votes for every judge
8 is counted for every girl?

9 A. Yes, they are.

10 Q. Do you throw out any votes, high
11 or low?

12 A. Yes, just like the Olympics, they
13 throw out the high and the low score.

14 Q. The remaining six votes are
15 tabulated?

16 A. Yes.

17 Q. And the girls are also -- strike
18 that.

19 It is also explained to the girls
20 how this computer key pad and the voting
21 works?

22 A. Yes.

23 Q. Ms. Monnin was present for that
24 part of the instruction as well?

25 A. Yes. Really for them they don't

1 Shugart - direct

2 tend to care as much -- they really care
3 about what are the judges looking for and
4 their patterns because while the judges are
5 voting there is a pattern that the girls are
6 walking at that time.

7 Q. Why don't you tell us what that
8 entails?

9 A. It is -- because it is a two-hour
10 telecast and there is a lot to fit in, we
11 have 16 contestants in swimsuit.

12 Each contestant, when she
13 completes will walk down the stage, down the
14 runway to the judges, and there are
15 different cameras they look at.

16 The judges also have a television
17 monitor there next to them. I explain to
18 the contestants that if a judge is looking
19 down they also have a monitor so - because
20 it is a sensitive time.

21 I want to make sure and I do make
22 it clear to the judges that this isn't a
23 fashion show. They really need to connect
24 with each contestant because this is the
25 biggest moment of her life so just to smile

1 Shugart - direct
2 and even if they don't think she should go
3 on, they should smile back.

4 I talk to the contestants about
5 that and making sure that they make the
6 moment -- most of the 30 seconds they are
7 literally in front of the judge.

8 When they walk down and have their
9 pattern the judge will -- this gives them an
10 opportunity during the briefing to rehearse
11 the pattern.

12 We have our choreographers and
13 stage managers who will give the judges a
14 sense of what the timing is going to be that
15 night.

16 So we sit there and we practice
17 with them just so they can get the rhythm
18 and they know how much time they have so
19 they realize it is a very, very quick
20 process so they have to have a rhythm.

21 Q. What is the first event during the
22 final telecast?

23 A. Swimsuit. After the top 16 have
24 been announced then they compete in
25 swimsuit.

1 Shugart - direct

2 Q. Again, 16 announced, that is the
3 first time that the 51 girls know who the 16
4 will be?

5 A. Yes.

6 Q. The top 16 do the swimsuit and
7 there is voting, right?

8 A. Yes.

9 Q. Let me show you what has been
10 marked as Exhibit 11.

11 What is Exhibit 11?

12 A. This is the dot matrix printout of
13 the voting during the swimsuit category
14 competition.

15 Q. Just if you can walk us through
16 what the information is on the top of the
17 page?

18 A. That was the order that all 16
19 girls competed in and these are the scores
20 and then from each individual judge and
21 below are the top ten out of that.

22 Q. You see where it says J number 01,
23 J number 02 across to 8?

24 A. Yes.

25 Q. What do those numbers correspond

1 Shugart - direct

2 to?

3 A. The judges that you saw, I think
4 it was Exhibit 8.

5 Q. Exhibit 7.

6 A. 7. Judge 1, Mary Lou Henner, et
7 cetera, that corresponds to each of those
8 judges.

9 Q. The numbers for each judge are
10 what they input into the key pad?

11 A. Yes.

12 Q. And then this all goes to Ernst &
13 Young and this dot matrix printout is
14 generated by who?

15 A. By the computer operators who are
16 sitting with Ernst & Young and --

17 Q. And then at the bottom there is a
18 list of states, right?

19 A. Yes. Those would be -- that is
20 the order of who received the highest
21 scores, highest to lowest.

22 Q. There is a line under number 10.
23 Do you see that?

24 A. Yes.

25 Q. What does that mean?

1 Shugart - direct

2 A. That is where Tal Goldhamer drew
3 the line knowing that is the top ten. Those
4 were the top that are going on to the
5 evening gown.

6 Q. What happens with this list once
7 it is generated?

8 A. With this list?

9 Q. Yes.

10 A. I don't actually see this list for
11 weeks so this comes by - Tal brings it from
12 the Ernst & Young office probably a month
13 after the show.

14 THE ARBITRATOR: It is printed out
15 for Ernst & Young people?

16 THE WITNESS: Yes. It is printed
17 out right there during the telecast.

18 So he -- and obviously he will
19 speak better to the process, but he will
20 take these numbers and he has his own
21 system to double and triple check
22 everything.

23 BY MR. BALBER:

24 Q. Do you know what he does with the
25 list of the top ten once he tabulated it and

1 Shugart - direct

2 cross checked it?

3 A. Yes. He has -- he will put a list
4 together which he or his colleague will then
5 take up to the stage but the first thing he
6 does is he will call the production truck
7 because it is really just two or three
8 minutes commercial break so he will call
9 them right away to get the message to the
10 director who made it to the top ten and the
11 order that they are going to be called in.

12 He has a random order that he puts
13 them in.

14 Q. By "random order," what do you
15 mean by that?

16 A. This top ten that you see here,
17 this is where he draws the line, this is the
18 order from who got the highest score to the
19 lowest.

20 He mixes it up in a random order
21 so you wouldn't know who got the highest
22 score.

23 Q. Out of the top ten?

24 A. Out of the top ten. If we read
25 this order 0, then you would say, oh, I

1 Shugart - direct

2 don't know who it was. I don't know if that
3 was Nevada.

4 Q. Nevada is the highest, yes?

5 A. So Nevada would be in the lead.
6 You wouldn't want to release that particular
7 order.

8 You want to say it is random so
9 every contestant knows they have an equal
10 chance going forward.

11 Q. Out of the top ten?

12 A. Yes.

13 THE ARBITRATOR: How do the judges
14 learn of the top ten?

15 THE WITNESS: They don't know
16 until it is announced by the host.

17 BY MR. BALBER:

18 Q. When do you learn of the top ten?

19 A. I don't know until it is announced
20 by the host.

21 Q. When does Mr. Trump learn?

22 A. That is when he finds out. I
23 think he and I are the two most nervous
24 during that time.

25 Q. Is it fair to say the only people

1 Shugart - direct
2 who know before it is announced are Mr.
3 Goldhamer and his team from Ernst & Young
4 and the people he calls in the production
5 truck?

6 A. The essential people in the
7 production after he has called them.

8 Q. And the dot matrix printout is
9 printed in front of Mr. Goldhamer?

10 A. Yes.

11 Q. He then puts together the list and
12 he then calls the truck and gives it to the
13 host?

14 A. Yes.

15 Q. And then you and Mr. Trump and the
16 girls and the world hear it at the same
17 time?

18 A. Yes.

19 THE ARBITRATOR: Does he actually
20 give the written printout to the
21 director, the people who are running the
22 production?

23 THE WITNESS: No. He just calls
24 it. There wouldn't be enough time.

25 THE ARBITRATOR: He just calls in

1 Shugart - direct
2 the names?

3 THE WITNESS: Yes.

4 BY MR. BALBER:

5 Q. The names are the names of the
6 girls or the names of the states?

7 A. The states.

8 Q. Okay.

9 So now we are down to ten. What
10 happens next?

11 A. Well, there -- the top ten are
12 announced and they go backstage and they
13 prepare for evening gown.

14 Q. How does the evening gown round
15 work?

16 A. The process is exactly the same as
17 swimsuit.

18 The judges have the key pad. They
19 rate the girls in evening gown based upon
20 the criteria I give them.

21 It is not about the dress. Some
22 people can afford an expensive dress but
23 some people can't.

24 We had a girl literally win once
25 with a dress she made out of her curtains

1 Shugart - direct
2 just like Carol Burnett.

3 THE ARBITRATOR: I remember that
4 one.

5 THE WITNESS: I saw it in the
6 window.

7 I make that clear. I just say it
8 is how the woman carries herself and so
9 that is the same process.

10 BY MR. BALBER:

11 Q. Same scoring, data is sent to
12 Ernst & Young and then let's look at Exhibit
13 12.

14 What is Exhibit 12?

15 A. Well, it is the dot matrix
16 printout from swimsuit to evening gown, or,
17 yes, after evening gown, I am sorry.

18 Q. Again you have J number 01 through
19 08 on top?

20 A. Yes.

21 Q. Those are the judges we have
22 identified?

23 A. Yes.

24 Q. Then the numbers beneath that are
25 what?

1 Shugart - direct

2 A. Who is going to be going to the
3 top five.

4 Q. Again, there is a ranking at the
5 bottom of the page?

6 A. Yes.

7 Q. What happens with that
8 information?

9 A. It is the exact same process. Tal
10 will go -- after he double and triple checks
11 it he then calls the production truck and
12 then he or a colleague will take the results
13 up to the host back stage.

14 Q. Does Mr. Goldhamer take that top
15 five and put it in random order?

16 A. It is completely random order.

17 Q. Why does he do that?

18 A. So you don't know who won what
19 particular category. It is an even playing
20 field.

21 Q. For that top five?

22 A. Yes.

23 THE ARBITRATOR: So the top five
24 are identified by correlating the top
25 numbers combining the numbers for the

1 Shugart - direct

2 swimsuit.

3 THE WITNESS: Yes.

4 THE ARBITRATOR: And the gown?

5 THE WITNESS: Yes.

6 BY MR. BALBER:

7 Q. Then again Mr. Goldhamer calls the
8 truck?

9 A. Yes.

10 Q. And the list goes up to the host?

11 A. Yes.

12 Q. And again when do you know who the
13 top five are?

14 A. Again, I know when the hosts
15 announce.

16 Q. The same for Mr. Trump?

17 A. Yes.

18 Q. And everybody else?

19 A. Yes. There are a handful of
20 people that know who is in the top five and
21 I am not one of the handful.

22 Q. They are all Ernst & Young and
23 technical people?

24 A. Yes.

25 Q. Now, what happens with the top

1 Shugart - direct

2 five? What do they do next?

3 A. They have the two interview
4 portions of the show where they are usually
5 asked one question about something that they
6 are involved, something from their bio, just
7 an opportunity for the judges to get to know
8 them a little bit, and then we have the
9 final question portion where they will take
10 a -- pick a name out of the bowl and a judge
11 will ask a question.

12 Q. What happens next once they answer
13 those two questions?

14 A. Once they answered the two
15 questions there is a final look portion
16 where the judges will have their notes or
17 what they have made a decision over the
18 course of the two hours.

19 At that point this key pad changes
20 a little bit and they just do a ranking
21 system as opposed to the Olympic scoring of
22 9.99.

23 They basically -- these top five,
24 1 through 5, will just light up and as each
25 contestant steps forward if the judge thinks

1 Shugart - direct
2 you should be Miss USA she will get a number
3 1 ranking so if the girl steps forward that
4 is my Miss USA they will hit 1 and that
5 light will go out so they can't make the
6 mistake of voting the same number twice.

7 Every light will go out until all
8 five contestants --

9 Q. What happens to 6, 7, 8, 9 and
10 zero?

11 A. Those are all dark. Just 1
12 through 5 are lit up.

13 Q. What happens to the information
14 that the judges input regarding their 1
15 through 5 ranking?

16 A. It is the same. It goes straight
17 to the Ernst & Young section at the back of
18 the house with the computer operators.

19 Q. Let me show you what has been
20 marked as Exhibits 13 and 14.

21 Start with Exhibit 13. What is
22 that?

23 A. That would be the top five
24 ranking, the voting after the top five.

25 Q. Again, we have the same judges

1 Shugart - direct

2 number 1 through 8?

3 A. Yes.

4 Q. And then there is numbers beneath
5 them that are 1, 2, 3, 4 and 5?

6 A. Yes.

7 Q. And then if we can look at Exhibit
8 14 for a second? What is that?

9 A. This was a form that is generated
10 by Tal at Ernst & Young just showing how the
11 judges voted for each contestant.

12 It is showing the variety that
13 they are -- obviously the reason the judges
14 are picked, there are a lot of different
15 opinions which is actually something, too,
16 just -- I do make that clear to the judges,
17 that even if you vote number 1 for someone
18 it is very important in the ranking for 2,
19 3 -- someone could win on a second or third
20 place vote so they have to take every single
21 vote very seriously.

22 Q. Who was the winner of Miss USA
23 2012?

24 A. Rhode Island, Olivia Culpo.

25 Q. You see she had two first place

1 Shugart - direct

2 votes?

3 A. Yes.

4 Q. How did she win?

5 A. How did she win?

6 Q. She had only two first place votes
7 but she was able to win anyway?

8 A. Yes. She had two first place
9 votes. She had three second place votes.
10 The second place vote was very, very
11 important.

12 She had no fifth place votes.
13 That is another thing I make clear to the
14 judges, who you put fifth.

15 In the past I have had people that
16 won because they didn't have fifth place
17 votes which also happened here.

18 MR. BALBER: Before I forget, we
19 offer Exhibits 11, 12, 13, 14 and 35?

20 THE ARBITRATOR: Okay. They are
21 admitted in evidence.

22 (Claimant's Exhibit 11 received in
23 evidence)

24 (Claimant's Exhibit 12 received in
25 evidence)

1 Shugart - direct

2 (Claimant's Exhibit 13 received in
3 evidence).

4 (Claimant's Exhibit 14 received in
5 evidence)

6 (Claimant's Exhibit 35 received
7 in evidence)

8 THE ARBITRATOR: Physically where
9 are the Ernst & Young people?

10 THE WITNESS: They are in a
11 secluded section of the auditorium but
12 they are close enough in case they need
13 to run up to the judges and so they have
14 a line of sight of the stage but they
15 are in a section by themselves.

16 THE ARBITRATOR: Do the
17 contestants have any contact?

18 THE WITNESS: No.

19 THE ARBITRATOR: Are they anywhere
20 near them?

21 THE WITNESS: No. We make sure
22 that we keep them as far away and away
23 from parents and everything else.

24 BY MR. BALBER:

25 Q. You will hear from Mr. Goldhamer

1 Shugart - direct

2 next who can probably answer it even with
3 more specificity.

4 You mentioned a minute ago that
5 the winner was Miss Rhode Island?

6 A. Yes.

7 Q. Do you know what her last question
8 was?

9 A. Yes, I do.

10 Q. What was it about?

11 A. This was the first year we had
12 audience participation.

13 We had a Twitter question that was
14 selected and we had a lot of good
15 submissions, a lot of people sent potential
16 final questions, but overwhelmingly there
17 was one about transgender.

18 A lot of people had asked about
19 the transgender issue so she was asked how
20 she would feel if she lost the title to
21 someone who was transgender contestant.

22 Q. What did she say?

23 A. She had a very, very thoughtful
24 answer.

25 She really saw both sides of it

1 Shugart - direct

2 but I think she came to the conclusion of,
3 but really who am I to step in the way of
4 somebody's happiness.

5 You could tell she was kind of
6 really thinking a lot about it.

7 Q. All right.

8 Was there anything different about
9 the 2012 Miss USA pageant relative to all
10 the other pageants you have been involved
11 with during your 12 years at Miss Universe?

12 A. Yes. Overall it was the same
13 right after the show.

14 Q. What was different this time?

15 A. I started hearing a little bit of
16 a buzz. There was a lot of activity going
17 on but I started to hear a little bit of a
18 buzz that there was a contestant backstage,
19 who had been backstage, who was upset during
20 the show or was starting to say things about
21 the show.

22 Q. Did you come to learn that she
23 sent any texts?

24 A. Yes, I did.

25 Q. Let me show you what has been

16

1 Shugart - direct

2 marked as Exhibit 15.

3 What is Exhibit 15?

4 A. This is a text from Sheena Monnin,
5 Miss Pennsylvania USA, to her state director
6 right after the top 16 were announced.

7 Q. Who was her state director?

8 A. Randy Sanders.

9 Q. You see the time at the top of the
10 page?

11 A. Yes.

12 Q. Where does that fall during the
13 telecast?

14 A. That would have been probably
15 about, I would have to double-check but it
16 would probably be within 15 minutes after
17 the top 16 had been announced.

18 Q. Sorry. What is -- what is the
19 name of the state director?

20 A. Randy Sanders.

21 Q. What did Ms. Monnin say to Randy?

22 A. She says this is F-ing rigged,
23 Randy. Seriously. Colorado, South
24 Carolina. So she -- I am done. This is
25 ridiculous. It is obviously rigged so the

1 Shugart - direct

2 girls they want can shine. They kept
3 several beautiful girls out for that reason.

4 Q. These text are referring to the
5 top 16 that were announced?

6 A. Yes.

7 Q. And this is being sent by her
8 while the final telecast is still on the
9 air?

10 A. Yes. The contestants at that
11 point would have been ready to compete in
12 swimsuit.

13 Q. She was claiming that the top 16
14 was rigged?

15 A. She was saying -- she was claiming
16 it was rigged and citing the fact at that
17 point because two contestants that she
18 didn't think should be in were.

19 Q. Did Ms. Monnin send any other
20 communications over the next day?

21 A. Yes, she did.

22 Q. Let me show you what is marked as
23 16.

24 We offer 15.

25 THE ARBITRATOR: 15 is admitted.

1 Shugart - direct

2 (Claimant's Exhibit 15 received in
3 evidence)

4 BY MR. BALBER:

5 Q. What is Exhibit 16?

6 A. This is an e-mail from Sheena to
7 her state director saying that she was
8 resigning because she could not be part of a
9 system that would allow natural born males
10 to compete.

11 Q. And she is referring to the
12 decision that the organization made to let
13 transgender --

14 THE ARBITRATOR: Where does she
15 make reference --

16 MR. COHEN: The bottom of page 1,
17 Exhibit 16.

18 THE ARBITRATOR: I see it.

19 Thank you.

20 THE WITNESS: It goes against
21 every moral fiber of her being.

22 BY MR. BALBER:

23 Q. This was sent by Ms. Monnin to
24 Randy Sanders, her state director, the next
25 morning, correct?

1 Shugart - direct

2 A. Yes, which I was a little
3 surprised at that point.

4 Q. Tell me why.

5 A. Because -- not against -- I mean,
6 if she had an issue with our decision but
7 the fact that the decision had been made in
8 the beginning of April, over two months
9 earlier, I thought it was odd that she was
10 taking a stand on this the day after the
11 pageant in which she didn't win.

12 Q. And, in fact, didn't advance to
13 the final 16?

14 A. Didn't make the top 16.

15 MR. BALBER: We offer Exhibit 16.

16 THE ARBITRATOR: Admitted.

17 (Claimant's Exhibit 16 received in
18 evidence).

19 BY MR. BALBER:

20 Q. Did Ms. Monnin continue to make
21 public statements after she sent Exhibit 16
22 to her state director?

23 A. Yes, she did.

24 Q. Let me show you Exhibit 17.

25 What is Exhibit 17?

1 Shugart - direct

2 A. This was one of her Facebook
3 posts.

4 Q. What did she say here?

5 A. That she was resigning her
6 position of Miss Pennsylvania and that she
7 was removing herself from the Miss Universe
8 organization because she considered us to be
9 a fraudulent organization and lacking in
10 morals.

11 She took a couple of shots at the
12 organization. So -- and that she would not
13 support the system in any way and that we
14 were -- that -- I guess the particular line,
15 "In my heart I believe in honesty, fair play
16 and fair opportunity and my moral integrity
17 which are not part of our system."

18 THE ARBITRATOR: When was that
19 e-mail sent or Facebook post? Do we
20 know?

21 MR. BALBER: Yes. This was the
22 next day.

23 THE WITNESS: This was on the 5th.

24 BY MR. BALBER:

25 Q. Of June?

1 Shugart - direct

2 A. June. The pageant was the 3rd.

3 Q. If --

4 MR. BALBER: We offer Exhibit 17.

5 THE ARBITRATOR: Admitted.

6 (Claimant's Exhibit 17 received in
7 evidence)

8 BY MR. BALBER:

9 Q. If we can now turn to Exhibit 18?
10 What is Exhibit 18?

11 A. There was a further Facebook post
12 that she made two days after the pageant.

13 Q. What does she say here?

14 A. Here is when she asserts that the
15 pageant was rigged.

16 Q. What does she say in that regard?

17 A. She said that she -- that a
18 contestant had -- that the -- there was a
19 list that had the top five in the exact
20 order that the top five were announced and
21 it was backstage the morning of the show
22 before the telecast had even happened and it
23 was the exact order that the top five were
24 announced.

25 Q. Would that be possible?

1 Shugart - direct

2 A. No.

3 Q. Why not?

4 A. Well, just based on everything we
5 just talked about, I don't know the order, I
6 don't even know who is in the top five.

7 Tal Goldhamer is the person that
8 randomly picks and puts it together. It
9 just couldn't happen.

10 Q. When you say "randomly picked," I
11 want to be clear what you mean by that.

12 A. He randomly puts the list -- first
13 of all, it would be impossible because the
14 top five is not selected until the moment
15 the judges put that score in.

16 That is the moment that those
17 numbers come together, they are triple
18 checked at that point.

19 At that point Tal then takes those
20 top five and uses the random order so for
21 two reasons it is a physical impossibility.

22 Q. Okay. In this Facebook posting
23 Ms. Monnin claims the show must be rigged.
24 Do you see that?

25 A. I will put these back on.